

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

City of Garden Grove)	Complaint No. 01-013
13802 Newhope Street)	for
Garden Grove, California)	Administrative Civil Liability
92643		

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The City of Garden Grove is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose administrative civil liability pursuant to California Water Code Section 13385.
2. A hearing concerning this complaint will be held before the Board within 60 days of the date of issuance of this complaint, unless the City of Garden Grove waives its right to a hearing. Waiver procedures are specified in Page 6 of this complaint. If the hearing on this matter is not waived, the hearing will be held during the Board's regular meeting on April 19, 2001, at the Orange County Water District, 10500 Ellis Avenue, Fountain Valley, California. The meeting will begin at 9:00 a.m. The City of Garden Grove, or its representative, will have the opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of civil liability by the Board. An agenda and announcement for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. If the April 19, 2001, hearing is held on this matter, the Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Various de minimus discharges from the City of Garden Grove are currently regulated under the Board's General Waste Discharge Requirements for Discharges to Surface Waters Which Pose an Insignificant (De minimus) Threat to Water Quality, Order No. 98-67, NPDES No. CAG998001, adopted by the Board on July 10, 1998. Order No. 98-67 establishes waste discharge requirements for various types of waste discharges that represent insignificant threats to water quality, including construction dewatering wastes.
5. On December 23, 1998, the City of Garden Grove submitted a Notice of Intent to enroll in Order No. 98-67. On January 15, 1999, the Board's Executive Officer authorized the City of Garden Grove to discharge waste under the terms of Order No. 98-67.

6. The City of Garden Grove is alleged to have violated Order No. 98-67. California Water Code Section 13385 Section (a) states:

"(a) Any person who violates any of the following shall be liable civilly in accordance with this section:

(2) Any waste discharge requirements or dredge and fill material permit."

Therefore the City of Garden Grove is liable civilly for the violation of Order No. 98-67.

7. This complaint is based on the following facts:

- A. Brandy Wine Development Group contracted with the City of Garden Grove to construct a sewer connection for a new residential housing project. The new sewer line was to extend from the intersection of Magnolia Street and Garden Grove Boulevard for approximately 2,600 feet to the intersection of Magnolia Street and Dale Street. The sewer line was proposed to be installed approximately 17 feet below ground surface level. The groundwater has been measured at approximately 9 to 10 feet below the ground surface. Therefore, dewatering of the underlying groundwater was necessary to construct the new sewer pipeline to accommodate the construction of the proposed sewer.
- B. On September 5, 2000, Brandy Wine Development Group contracted with both Griffin Dewatering and BNB Engineering to complete the necessary dewatering activities. Under the Construction agreement with Brandy Wine Development Group, BNB Engineering assumed responsibility to comply with the requirements of Order No. 98-67. Griffin Dewatering installed four wells along the southern portion of Garden Grove Boulevard, west of Magnolia Street. These wells were installed from 15-35 feet below ground surface. The area is immediately north of Mobil Service Station No. 11-GTB located at 13031 Magnolia Street, Garden Grove.
- C. On September 8, 2000, at 6:30 p.m., BNB Engineering began dewatering at the intersection of Garden Grove Boulevard and Magnolia Street. The City of Garden Grove did not give Regional Board staff timely notice of this discharge, as required by Order No. 98-67. During the discharge, no samples were collected during the first 30 minutes, as is required by Board Order No. 98-67.
- D. The water extracted from the dewatering wells was diverted into a 1,000-gallon overflow tank to allow sediment to settle out of the groundwater prior to discharging into a curb and gutter along Garden Grove Boulevard. The discharge flowed west on Garden Grove Boulevard to the intersection of Garden Grove Boulevard and Yockey Street. The discharge then flowed south on Yockey Street to the intersection of Yockey Street and Trask Avenue. The discharge

entered a storm drain approximately 1,150 feet west of the intersection of Trask Avenue and Yockey Street.

- E. On September 12, 2000, at approximately 10:00 a.m., staff of BNB Engineering noticed that the check valve on the discharge piping from dewatering well No. 1 had been installed backwards, and consequently the well pump was not able to function. The pump was then removed from the well to correct this installation error. At the time, BNB Engineering staff noticed a strong gasoline odor in the well.
- F. The Contractor called City of Garden Grove officials to report the strong gasoline odor. City of Garden Grove staff called the City Fire Department and, through their efforts, Orange County Health Care Agency (OCHCA) and Orange County Public Facilities and Resources Department (PFRD) were notified of the discharge.
- G. The City of Garden Grove did not collect an initial discharge sample for analysis as required by Order No. 98-67. On September 12, 2000, PFRD collected a water sample from dewatering well No. 1. The sample collected from dewatering well No. 1 is believed to represent the "worst case character" of the discharge¹ that entered the storm drain located approximately 1,150 feet west of the intersection of Trask Avenue and Yockey Street. The following table displays the results of the analysis as compared to effluent limits included in both Order No. 98-67 and General Groundwater Cleanup Permit Order No. 96-18²:

Measured Constituents	Results (µg/L)	Order No. 98-67 (µg/L)	Order No. 96-18 (µg/L)
TPH	*650	100	100
Benzene	**27	None	1
Toluene	4	None	10
Ethylbenzene	4	None	10
Xylenes	**53	None	10
MtBE	19	None	None

*Represents violations of Order No. 98-67.
** Represents exceedances of Groundwater Cleanup permit discharge limits.

The City of Garden Grove is currently regulated under Order No. 98-67, NPDES No. CAG998001. However, the degree of potential environmental impact of the discharge is evidenced by comparison of the discharge quality with the General Groundwater Cleanup Permit limits.

¹ Subsequent research of Board files (Board staff has data concerning two leaking underground fuel tank cases at the intersection of Garden Grove Boulevard and Magnolia Avenue) has shown that the highest concentrations of gasoline-related contaminants in groundwater at this location are found closest to dewatering well No. 1.

² Board Order No. 96-18 establishes waste discharge requirements for extracted and treated groundwater resulting from the cleanup of groundwater polluted by hydrocarbons, e.g., gasoline, and/or organic solvents.

- H. On September 19, 2000, staff members from the City of Garden Grove collected a sample from the holding tank and analyzed the sample in accordance with Order No. 98-67. The results are as follows:

Measured Constituents	Results (µg/L)	Order No. 98-67 (µg/L)
Total Petroleum Hydrocarbons (TPH)	*175	100
Oil & Grease	7,000	15,000
Total Suspended Solids (TSS)	*100,000	75,000

* Exceeds discharge limitations in Order No. 98-67.

- I. On September 26, 2000 staff from the City of Garden Grove collected groundwater samples from the remaining dewatering wells. The results are as follows:

Well No.	Total Petroleum Hydrocarbons (TPH) (µg/L)	Total Suspended Solids (TSS) (mg/L)
2	*490	45
3	*250	*104
4	*115	*196

* Exceeds discharge limitations in Order No. 98-67.

- J. The City of Garden Grove's discharge that occurred from September 8, 2000 to September 12, 2000, violated the following requirements of Order No. 98-67:

1. Monitoring and Reporting Program Order No. 98-67-070 Section II; "Monitoring":

"The discharge shall be sampled during the first 30 minutes of each discharge and weekly thereafter for continuous discharges".

2. Monitoring and Reporting Program Order No. 98-67-070 Section III; "Reporting":

"Five days prior to any discharge, the discharger shall notify the Regional Board staff by phone or a fax letter indicating the following information: date and time of the proposed discharge, specific type(s) of proposed wastewater discharge, estimated average flow, frequency and duration of the discharge, affected receiving water(s), and description of the proposed treatment system if applicable".

3. Discharge Specifications A.1, which states, "The discharge of wastewater shall not contain constituent concentrations in excess of the following limits:

Measured Constituents	Concentration
Oil and Grease	15 mg/L
Sulfides	0.4 mg/L
Total Suspended Solids	75 mg/L
Total Residual Chloride	100 µg/L
Total Petroleum Hydrocarbons	100 µg/L

8. Pursuant to Water Code Section 13385, those who violate waste discharge requirements are liable civilly. As provided by Water Code Section 13385 (c), the Board can administratively assess civil liability in an amount not to exceed the sum of both of the following:
- A. Ten thousand dollars (\$10,000) for each day in which the violation occurs; and,
 - B. Where there is a discharge, any portion of which is not susceptible to clean up or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
9. In accordance with Water Code Section 13385 (c), the maximum liability for the violation cited is \$1,576,000. This liability is calculated in the following manner:
- A. \$30,000, for 3 days of discharge in violation of Order No. 98-67; and,
 - B. \$1,546,000, at \$10 per gallon for each gallon over 1,000 gallons discharged in violation of Order No. 98-67 not susceptible to clean up, calculated as follows:

Start discharge: 9/8/00, Friday at 6pm

End discharge: 9/12/00, Tuesday at 9am

Total time of discharge = 87 Hours

Discharge Rate = 1,800 gallons
hr

Holding Tank = 1,000 gallons capacity

Total Flow (Q): 1,800 gallons • 87 hours = 156,600 gallons
hr

\$10 • (156,600 gallons – 1,000 gallons (Holding Tank) – 1,000 gallons)
gallons

\$1,546,000

The sum of \$30,000 (from 8.A, above) and \$1,546,000 (from 8.B, above) is \$1,576,000.

10. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability, including recovery of economic benefits derived from the acts that constitute the violation. The State Water Resources Control Board's Enforcement Policy calls for recovery of staff costs in liability assessments.
11. After consideration of all factors, the Executive Officer proposes that civil liability should be imposed on the City of Garden Grove by the Board in the amount of \$32,010 for the violations cited above.
12. The City of Garden Grove may waive its right to a hearing. If the City of Garden Grove waives its right to a hearing, please sign the waiver form that is Page 7 of this complaint, and submit it, with a cashier's check made payable to the State Water Resources Control Board in the amount of the civil liability to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Any questions regarding this complaint should be directed to the undersigned or to Mark G. Adelson, Surveillance and Enforcement Section chief, at (909) 782-3284, or Jessie H. Powell, Surveillance and Enforcement Section staff engineer, at (909) 320-6358, or Ted Cobb, the Board's staff counsel, at (916) 341-5171.

3-19-01

Date



Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:)

The City of Garden Grove)
13802 Newhope Street)
P.O. Box 8127)
Garden Grove, California)
92643)

Complaint No. 01-013
for
Administrative Civil Liability

WAIVER OF HEARING

The City of Garden Grove agrees to waive its right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-013. The City of Garden Grove understands that it is giving up its right to be heard and to argue against allegations made by the Executive Officer in Complaint No. 01-013, and against the imposition of, and amount of, the civil liability.

Date

for City of Garden Grove